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6

7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF WASHINGTON**

9 NICHOLAS ROLOVICH,

10 Plaintiff,

11 v.

12 WASHINGTON STATE
13 UNIVERSITY, an agency of the
14 State of Washington; PATRICK
15 CHUN, Director of Athletics for
Washington State University, in
his individual capacity; and JAY
INSLEE, Governor, in his official
capacity,

16 Defendants.

17 NO. 2:22-cv-00319-TOR

18 DEFENDANT GOVERNOR
19 JAY INSLEE'S **UNOPPOSED**
20 MOTION FOR RULE 54(b)
21 CERTIFICATION OF FINAL
22 JUDGMENT

July 20, 2023
Without Oral Argument

18 **I. INTRODUCTION**

19 In its May 30, 2023 Order on Motions to Dismiss (ECF No. 33), this Court
20 granted Defendant Governor Jay Inslee's Motion to Dismiss (ECF No. 21), and
21 dismissed with prejudice all claims asserted against him. ECF No. 33 at 2, 28.
22 This was after Plaintiff filed a pleading informing the Court that he did not oppose

1 Governor Inslee's Motion to Dismiss. ECF No. 28 at 8; ECF No. 33 at 6.
 2 Defendant Inslee, therefore, respectfully requests that the Court certify its Order
 3 as a final judgment in favor of Governor Inslee under Federal Rule of Civil
 4 Procedure 54(b). Counsel for Governor Inslee has conferred with the other
 5 parties, and is authorized to represent to this Court that this Motion is Unopposed.

6 **II. FACTUAL AND PROCEDURAL BACKGROUND**

7 Nicholas Rolovich brought this action against Washington State
 8 University and its athletic director, Patrick Chun (collectively "WSU
 9 Defendants"), and Governor Jay Inslee. The WSU Defendants and Governor
 10 Inslee each filed separate motions to dismiss. ECF Nos. 21, 22. Governor Inslee
 11 asserted multiple reasons why all of the claims against him should be dismissed
 12 with prejudice. ECF No. 21. In his Response, Plaintiff Rolovich told the Court
 13 he did not oppose dismissal of all claims against Governor Inslee, and he did not
 14 otherwise respond to any of Governor Inslee's arguments in support of dismissal.
 15 ECF No. 28. This Court granted Defendant Inslee's Motion to Dismiss and
 16 dismissed with prejudice all claims against him. ECF No. 33.

17 **III. AUTHORITY AND ARGUMENT**

18 **A. This Court has Discretion Under Rule 54(b) to Enter Immediate and
 19 Final Judgment**

20 As this case involves multiple claims against multiple parties, Rule 54(b)
 21 empowers this court to "direct entry of a final judgment as to one or more, but
 22 fewer than all, claims or parties[.]" Fed. R. Civ. P. 54(b). The court may do so

1 upon an express determination “that there is no just reason for delay.” *Id.*; *Noel*
 2 *v. Hall*, 568 F.3d 743, 747 (9th Cir. 2009). In deciding whether to certify an order
 3 under Rule 54(b), a district court must first determine that it is dealing with a
 4 “final judgment.” *Curtiss-Wright Corp. v General Elec. Co.*, 446 U.S. 1, 7
 5 (1980). The order must be a “judgment” in the sense that it is a decision upon a
 6 cognizable claim for relief, and it must be “final” in the sense that it is “an
 7 ultimate disposition of an individual claim entered in the course of a multiple
 8 claims action.” *Id.* (quoting *Sears, Roebuck & Co. v. Mackey*, 351 U.S. 427, 436
 9 (1956)). The court then must determine whether there is any just reason for delay.
 10 *Id.* at 8; *Noel*, 568 F.3d at 747. “It is left to the sound judicial discretion of the
 11 district court to determine the ‘appropriate time’ when each final decision in a
 12 multiple claims action is ready for appeal. This discretion is to be exercised ‘in
 13 the interest of sound judicial administration.’” *Curtiss-Wright Corp.*, 446 U.S.
 14 at 8 (quoting *Sears, Roebuck & Co.*, 351 U.S. at 437).

15 For the reasons set forth below, the Court’s Order is a final decision with
 16 respect to Governor Inslee, there is no just reason for delay, and the Court should
 17 certify its Order as a final judgment in favor of Governor Inslee.

18 **B. The Order is a Final Disposition of the Claims against Governor Inslee**

19 The express language of the Court’s Order reflects the intent to finally
 20 determine Governor Inslee’s liability in this case. The Order resolves all of
 21 Plaintiff Rolovich’s claims against Governor Inslee with Prejudice. The Order is
 22 therefore a “final judgment” under the standard set forth in *Curtiss-Wright Corp.*,

1 446 U.S. at 7. While Rolovich may attempt to further pursue his case against
 2 WSU, the Court's Order was the ultimate disposition of all of his claims for relief
 3 against Governor Inslee. Accordingly, the Order satisfies the "final judgment"
 4 component of Rule 54(b).

5 **C. There Is No Just Reason for Delay in Entering Judgment for Governor**
 6 **Inslee**

7 There is likewise no just reason for delay of entry of judgment in favor of
 8 Governor Inslee. In determining whether any reason justifies delay of the entry
 9 of judgment, the Court must weigh both "justice to the litigants" and "the interest
 10 of sound judicial administration." *Curtiss-Wright Corp.*, 446 U.S. at 6, 8.

11 The factors affecting justice to the parties will inevitably differ from
 12 case to case, but the factors pertaining to judicial administration
 13 include whether the claims under review are separable from the
 14 others remaining to be adjudicated and whether the nature of the
 claims already determined are such that no appellate court will have
 to decide the same issues more than once even if there are
 subsequent appeals.

15 *Brooks v. Dist. Hosp. Partners, L.P.*, 606 F.3d 800, 806 (D.C. Cir. 2010) (quoting
 16 *Curtiss-Wright Corp.*, 446 U.S. at 8). Here, justice to the litigants clearly favors
 17 entry of final judgment in favor of Governor Inslee. As explained in Governor
 18 Inslee's unopposed Motion to Dismiss, Governor Inslee is not the employer and
 19 his decisions are not challenged in this case. Moreover, an appeal by Rolovich
 20 regarding his claims against Governor Inslee is not likely, given that Rolovich
 21 did not oppose Governor Inslee's Motion to Dismiss. Accordingly, Rolovich's
 22 claims against Governor Inslee are separable from the remaining claims against

1 WSU, and there is no risk that an appellate court will have to decide the same
2 issues more than once. Moreover, all of the parties agree that final judgment as
3 to the claims asserted against Governor Inslee is appropriate.

4 **IV. CONCLUSION**

5 There is no just reason to delay entry of a final appealable judgment against
6 Governor Inslee. Accordingly, he respectfully requests that the Court certify its
7 Order as a final judgment in favor of Governor Inslee pursuant to Rule 54(b),
8 enter findings and conclusions in support of that certification as set out in
9 Governor Inslee's proposed order, and direct the Clerk to enter judgment in
10 Governor Inslee's favor.

11 DATED this 20th day of July, 2023.

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19 *Attorneys for Defendant Jay Inslee*

CERTIFICATE OF SERVICE

I hereby certify that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF System, which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system.

DATED this 20th day of July, 2023, at Olympia, Washington.

s/ *Alicia O. Young*
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